Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Concerns Regarding the Impact of 9-1-1-related Smartphone Applications and Related Public Safety Services on Delivery and Processing of Requests for Emergency Assistance	)	RM-11780

REPLY COMMENTS OF AICC

The Alarm Industry Communications Committee ("AICC"), on behalf of its members, submits these Reply Comments in the above referenced proceeding, in which the Commission seeks comment on the petition by the National Association of State 911 Administrators ("NASNA") to initiate a proceeding related to 911 applications for smartphones.[1] AICC supports those commenters that recognize the seriousness of the concerns raised by NASNA, and agrees with NASNA that a proceeding to further explore the issue is appropriate.

AICC is comprised of CSAA, Electronic Security Association (ESA), Security Industry Association (SIA), the National Public Safety Telecommunications Council (NPSTC), Ackerman Security, ADS, ADT, AES-IntelliNet, AFA Protective Systems, Alarm.com, Alarm Detection Systems, ASG Security, Axis Communications, Bay Alarm, Bosch Security Systems, Charter Communications, Comcast, COPS Monitoring, CRN Wireless, LLC, DGA Security, Digital Monitoring Products, Digital Security Control, Encore Networks, FM Approvals,

[1] *See* "*Public Safety and Homeland Security Bureau Seeks Comment on Request of the National Association of State 911 Administrators to Address Issues Related to 911 Applications for Smart Phones*," Public Notice, RM-11780, DA 16-1405, released December 19, 2016.

Honeywell Security, Inovonics, Interlogix, Intertek Testing, iPDatatel, MONI, Napco Security, NetOne, Nortek, Protection One, Rapid Response Monitoring, Security Central NC, Select Security/Security Partners, Simplex Grinnell, Stanley Security, Supreme Security Systems, Inc., Telular Corp, Tyco Integrated Security, Tyco Security Products, Underwriters Laboratories (UL), Universal Atlantic Systems, Vector Security, Inc., Vivint (formerly APX Alarm), and Wayne Alarm. Thus, every aspect of the alarm industry is well represented in AICC, including central stations, equipment manufacturers, alarm service dealers, and the Public Safety community.

AICC shares the concerns raised by NASNA and initial commenters in the proceeding, and supports NASNA's request for the Commission to initiate a formal proceeding on 911 apps. AICC member companies, particularly its central station members, work hand in hand with the public safety community to identify ways to best relay information about genuine emergencies requiring a PSAP response, while limiting the burden on public safety resources through a screening of false alarms and non-emergency events. The possibility that an app may undermine that relay and exchange of information is potentially catastrophic.

In the past, AICC has raised concerns over device-initiated 911 calls because of the threat that they could overwhelm PSAPs with unscreened, repeated non-emergency calls (not unlike the old "auto-dialers").[2] Similar concerns arise with 911 apps such as those described by NASNA. Specifically, a PSAP has no way of knowing whether or not an emergency call or signal from a 911 app is legitimate until valuable time and resources have already been spent, as a PSAP will not be able to treat a signal from an app lightly once it is received. Apps that route a

[2] *See Comments of AICC,* PS Docket No. 10-255, filed February 28, 2011.

911 call indirectly to the PSAP introduce delay and potentially an increased risk of call drop, which can hurt the caller's ability to obtain an emergency response in a timely manner. Minutes and even seconds count in preventing the spread of a fire, or to prevent damage from a stroke or heart attack. An even greater risk is caused by any app that allows for the altering of location information. This is a form of "spoofing," and can send emergency personnel on a wild goose chase that not only consumes scarce budgetary resources but also prevents such personnel from being available for a genuine emergency. Moreover, manipulation of such spoofing capability would allow a criminal or terrorist to defeat the emergency response system at precisely the time when a crime or terrorist attack is occurring. However, even spoofing of 911 information as a teenage prank can hinder the PSAP from protecting the public.

AICC agrees with NTCA, APCO, and other commenters that standards should be developed for 911 apps as part of a joint effort, and it is vital that this effort should include the Commission as well as industry stakeholders.[3] Apps are the natural outgrowth of the ongoing evolution of the nation's communications systems from TDM to IP, and the Commission should continue in its role as the steward of effective emergency communications capabilities. The Commission has recognized that internet protocol (IP) is the future of communications in America. [4] The Communications Act of 1934, as amended (the "Act") expressly charges the Commission with responsibility for making available "a rapid, efficient, Nation-wide, and world-wide wire and radio communication service . . . for the purpose of *promoting safety of life and property* through the use of wire and radio communication."[5] When the Commission extended its

[3] *See, Comments of APCO,* RM-11780, filed February 2, 2017*; Comments of NTCA,* RM-11780, filed February 2, 2017.
[4] *See, e.g., Technology Transitions*, GN Docket No. 13-5.
[5] 47 USC §151.

911 requirements to VoIP, it acknowledged that, "promoting an effective nationwide 911/E911 emergency access system has become one of the Commission's primary public safety responsibilities under the Act."[6] And indeed, when the FCC first confronted the question of E911 for VoIP, VoIP was essentially an over-the-top broadband app not unlike the 911 apps in question.[7]

The Commission is also explicitly required to "determine whether any new technology or service proposed … is in the public interest," whether it is through a petition or through its own volition.[8] In making a public interest determination, the Commission is required to consider public safety by both § 151 of the Act and the Wireless Communication and Public Safety Act of 1999 § 3, 47 U.S.C. § 615 (Requiring that the Commission "shall encourage and support efforts by States to deploy comprehensive end-to-end emergency communications infrastructure and programs, based on coordinated statewide plans, including seamless, ubiquitous, reliable wireless telecommunications networks and enhanced wireless 9-1-1 service").[9] In enacting the Enhanced 911 Act of 2004, Congress found that "for the sake of our Nation's homeland security and public safety, a universal emergency telephone number (911) that is enhanced with the most modern and state-of-the-art telecommunications capabilities possible should be available to all citizens in all regions of the Nation."[10]

[6] *In the Matters of IP-Enabled Services*, 20 FCC Rcd 10245, 10265 (FCC 2005).
[7] *Vonage Holdings Corp. Petition for Declaratory Ruling Concerning an Order of the Minnesota Pub. Util. Commn., Order*, 19 FCC Rcd 22404 (2004).
[8] 47 USC §157.
[9] *Nuvio Corp. v. FCC*, 473 F.3d 302, 308 (D.C. Cir. 2006).
[10] 118 Stat. 3986 §102.

Some parties question the Commission's jurisdiction to regulate 911 apps. AICC respectfully submits that, while certain concerns of NASNA's may well be outside the Commission's jurisdiction – such as whether certain app makers are making false claims about their association with NASNA and other such entities – other apps would appear to fall directly within the Commission's jurisdiction. For example, NASNA states one app "delivers 911 calls as VoIP calls" over VoIP. The Commission has jurisdiction over VoIP, has already extended E911 requirements to VoIP that include certain location requirements, and has indicated that it will consider additional requirements as the technology develops.[11]

The Commission's ancillary jurisdiction, enumerated in §154(i) of the Act, also sufficiently authorizes the Commission to regulate certain 911 apps. Ancillary jurisdiction covers circumstances where: (1) the Commission's general jurisdictional grant under Title I covers the subject of the regulations, and (2) the regulations are reasonably ancillary to the Commission's effective performance of its statutorily mandated responsibilities.[12] As the Supreme Court has recognized, the Commission is expected by Congress to "serve as the 'single Government agency' with 'unified jurisdiction' and 'regulatory power over all forms of electrical communication, whether by telephone, telegraph, cable, or radio.'"[13]

The first prong of the ancillary jurisdiction test is satisfied because the Act's provisions are applicable to "all interstate and foreign communication by wire or radio . . . ."[14] Such communications are defined by the Act to encompass "the transmission of . . . signals, pictures,

[11] *E911 Requirements for IP-Enabled Service Providers*, 20 FCC Rcd 10245 (FCC 2005).
[12] *United States v. Southwestern Cable Co*., 392 U.S. 157, 177-78 (1968) (*Southwestern Cable*) (upholding the FCC regulatory authority over cable television).
[13] *Id*. at 168.
[14] 47 USC §152 (a).

and sounds of all kinds," whether by radio or cable, "including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission."[15] Therefore, the Commission's general jurisdictional grant under Title I squarely applies to the existing 911 emergency response system.

The second prong of ancillary jurisdiction is satisfied because, as noted above, the Commission is responsible under the Act for making communications services available for the purpose of promoting safety of life and property.[16] In enacting the Enhance 911 Act of 2004, Congress found that "for the sake of our Nation's homeland security and public safety, a universal emergency telephone number (911) that is enhanced with the most modern and state-of-the-art telecommunications capabilities possible should be available to all citizens in all regions of the Nation."[17] Many of the 911 apps highlighted by NASNA and the initial commenters in this proceeding interfere with the Commission's ability to carry out these statutory mandates.

To be clear, AICC agrees with NTCA and AT&T that responsibility for monitoring or vetting apps of any kind, including 911 apps, should not fall solely on internet service providers.[18] The Commission should not, as NTCA correctly points out, "[cast] about for entities over whom the Commission has statutory authority…" but rather should initiate a proceeding to "[ask] the right questions."[19] Rather, AICC believes the Commission clearly has the ability pursuant to its plenary authority over the Nation's 911 capability to ensure that PSAPs are able to

[15] 47 USC §§153 (a), (b).
[16] 47 USC §151.
[17] 118 Stat. 3986 §102.
[18] *Comments of NTCA*, *supra* note 3; *Comments of AT&T*, RM-11780, filed February 2, 2017.
[19] *Comments of NTCA* at p. 2, 4.

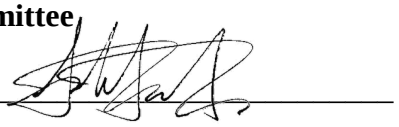
respond to emergencies or, at minimum, initiate a proceeding to explore the issue and implement a plan to curtail the negative effects of these apps.

Conclusion

The Commission has the jurisdiction to, and should investigate the potential for any harmful impacts to the 911 capabilities of our nation's first responders, and take steps to prevent such harms.

Respectfully submitted,

Alarm Industry Communications Committee

By: 

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